SBCivil Writ Petition No.2429/1993

Rajasthan State Road Transport Corporation & Anr.
Vs.
Shri Ranjeet Singh & Anr.

Date of Order :: 7th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.S.Bhati, for the petitioners.
Mr. R.S.Saluja, for the respondents .

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By this petition for writ a challenge is given to the award dated 29.5.1992 passed by Labour Court, Bikaner setting aside the order passed by the employer terminating the respondent workman from service. The Labour Court by award impugned also ordered for reinstatement of the respondent workman as conductor without any back wages.

In brief, facts of the case are that the Depot Manager, Rajasthan State Road Transport Corporation, Sardarsahar terminated the respondent workman from the services w.e.f. 20.11.1985. Being aggrieved by the same a dispute was raised by the workman that was referred for its adjudication to the Labour Court, Bikaner by appropriate government under a notification dated 7.2.1990.

A statement of claim was filed by the respondent workman alleging that his termination from service is nothing but retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947

(hereinafter referred to as “the Act of 1947”) and that was effected without adhering mandatory condition precedent to do so.

In written the employer came up with a case that the workman was not retrenched from services but he was discontinued from service as a disciplinary measure. According to the employer the workman was found carrying ticketless travellers and, therefore, he was guilty of a misconduct. The Labour Court after considering the evidence available on record held that as no inquiry was conducted by the employer before discontinuing the workman from service, therefore, his termination is nothing but retrenchment as defined under Section 2(oo) of the Act of 1947. The Labour Court also held that the workman being found carrying ticketless travellers is not entitled for back wages for the period he remained out of employment while passing an order of reinstatement.

A challenge to the award aforesaid is given by the employer Rajasthan State Road Transport Corporation on the ground that the Labour Court at one hand found the petitioner guilty for misconduct and, therefore, did not allow back wages but at the same time at other hand declared the termination of the petitioner as a retrenchment and ordered for reinstatement of workman. According to counsel for the petitioner once the workman is found guilty of

misconduct, there was no occasion for holding termination of workman a retrenchment and for directing the employer for reinstatement.

Per contra, learned counsel for the respondent workman has stated that no inquiry was conducted by the employer before discontinuing the workman from service, therefore, the Labour Court rightly held termination of the workman as retrenchment.

Heard counsel for the parties.

The employer in its written statement came out with a specific case that termination of the respondent workman from service was not simplicitor but was an out come of the disciplinary measure. Necessary evidence was also produced by the employer in this regard. The Labour Court also found that the workman was found carrying ticketless travellers and, therefore, declared him disentitled for getting back wages. Once the Labour Court accepted the fact that the workman was terminated from service as a disciplinary measure, there was no occasion to treat such termination as retrenchment. Accordingly I am of the considered opinion that the Labour Court erred while holding termination of the respondent workman as retrenchment.

It is stated at Bar by counsel for the workman that in compliance of the award impugned the respondent workman has already been reinstated in service. This fact has not denied by counsel for the employer. In view of it after a lapse of more than a decade I do not consider it appropriate now to quash the order of reinstatement passed by the Labour Court. However, the award impugned requires modification to the extent of imposing a suitable penalty. Looking to all the facts and circumstances of the case, to meet the ends of justice, I consider it appropriate to impose a penalty of stoppage of three annual grade increments with cumulative effect upon the respondent workman.

With these directions the writ petition is disposed of.

(GOVIND MATHUR),J.

kkm/ps.